

Act 1898, ch. 502.

The act of 1898, ch. 502, repealed as to Baltimore City all sections of art. 63 providing for a lien for materials. That act wiped out all liens which at time of its passage had not been commenced, prosecuted and concluded. The right to a mechanics' lien for materials is not a vested right, and hence act of 1898, ch. 502, is constitutional. *Wilson v. Simon*, 91 Md. 4.

Purpose of act of 1898, ch. 502, was to eliminate from lien law as respects Baltimore City all liens for materials. In Baltimore City, where an entire contract embraces both labor and materials, there can be no lien even for labor. Models furnished by a marble cutter as a means of guiding and fashioning the work do not constitute materials, and hence such contract is for labor only. A contract with a marble cutter, held to be for labor and not for materials. The words "on or about" as used in act of 1898, ch. 502, sec. 1, construed. *Evans Co. v. International Trust Co.*, 101 Md. 213; *Md. Casualty Co. v. Lacios*, 121 Md. 688.

Generally.

Where an entire contract is entered into for work on a row of houses, the lien extends to all houses, and it makes no difference as to how much material went into any one house. The claimant need not show that the materials actually went into buildings, provided they were contracted for and delivered. Part performance. The lien will be enforced notwithstanding errors in the account—auditor can correct them. *Fulton v. Parlett*, 104 Md. 69; *Maryland Brick Co. v. Dunkerly*, 85 Md. 212; *Maryland Brick Co. v. Spilman*, 76 Md. 341; *Wilson v. Wilson*, 51 Md. 160. And see *Gunther v. Bennett*, 72 Md. 386; *Watts v. Whittington*, 48 Md. 357; *Greenway v. Turner*, 4 Md. 305.

Proceedings for enforcement of mechanics' liens, are exclusively *in rem*—effect thereof. The court need not determine whether party named as owner in claim as filed is real owner. *Shryock v. Hensel*, 95 Md. 626. And see *Kelly v. Gilbert*, 78 Md. 438; *Miller v. Barroll*, 14 Md. 183. *Cf. McKim v. Mason*, 3 Md. Ch. 212.

The assignee of a mechanics' lien claim takes it subject to equities enforceable against it in hands of assignor. Waiver of mechanics' lien. Estoppel. *Goldman v. Brinton*, 90 Md. 264.

There being no lien for materials in Baltimore City, an agreement to pay a claim provided no lien (for materials) be filed is void because it has no consideration. *Dipaula v. Green*, 116 Md. 494.

The act of 1910, ch. 52 (p. 564), was validly passed and is constitutional. *Baltimore Warehouse Co. v. Canton Lumber Co.*, 118 Md. 138.

As to waiver of mechanics' liens, see also *Maryland Brick Co. v. Dunkerly*, 85 Md. 212; *Sodini v. Winter*, 32 Md. 134.

The claimant is entitled to interest from the time his claim is filed. *Hensel v. Johnson*, 94 Md. 737; *German, etc., Church v. Heise*, 44 Md. 472.

A lien claimant has an insurable interest in a building prior to filing of his claim under sec. 23. *Franklin Co. v. Coates*, 14 Md. 296; *Sodini v. Winter*, 32 Md. 133.

Nature and extent of a mechanics' lien. *Evans Co. v. International Trust Co.*, 101 Md. 218; *Wilson v. Simon*, 91 Md. 6; *Willison v. Douglas*, 66 Md. 102; *Reindollar v. Flickinger*, 59 Md. 471; *McLaughlin v. Reinhart*, 54 Md. 76; *Treusch v. Shryock*, 51 Md. 172; *Blake v. Pitcher*, 46 Md. 465; *Sodini v. Winter*, 32 Md. 133.

In Baltimore County, where a contractor temporarily abandons work and owner takes work up but subsequently contractor resumes charge, a contract with owner as to materials furnished subsequent to such resumption by contractor was held not to be established by evidence, and lien held invalid. *Carroll v. Waters*, 108 Md. 420 (decided prior to act, 1910, ch. 52).

For a case involving enforcement of a lien by sureties who guaranteed against liens, see *German, etc., Church v. Heise*, 44 Md. 476. See also *Pinning v. Skipper*, 71 Md. 351.

For a case holding that act of 1838, ch. 205, was sufficiently identified, although referred to as act of 1839, and also dealing with act of 1845, ch. 176, see *Pue v. Hetzell*, 16 Md. 549.

Quere, whether there can be a lien on a building and adjacent land, for bricks furnished for a pavement around building. *Watts v. Whittington*, 48 Md. 357.

Cited but not construed in *Wilson v. Jones*, 46 Md. 358.

Re mechanics' liens on machines, etc., see sec. 22; as to boats, see sec. 34.

As to liens of the owners of stallions, see art. 27, secs. 261 and 262.

Cited in *Fid. & Dep. Co. v. Lumber Co.*, 176 Md. 223.

See notes to secs. 11, 19 and 23.

An. Code, 1924, sec. 2. 1912, sec. 2. 1904, sec. 2. 1888, sec. 2. 1845, ch. 287, sec. 3.

2. In all cases in which a building shall be commenced and not finished the lien shall attach thereto to the extent of the work done or materials furnished.

Where a heating plant is not put in until after the building is completed, there can be no lien under this section. *Shacks v. Ford*, 128 Md. 288.

Cited but not construed in *McLaughlin v. Reinhart*, 54 Md. 76.

See notes to secs. 1 and 15.